

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION

INDEMNITY INSURANCE
COMPANY OF NORTH AMERICA,

Plaintiff

vs.

NATHAN TINSTMAN, AS
ADMINISTRATOR OF THE ESTATE
OF MARC RICHARD TINSTMAN;
NATHAN TINSTMAN, AS
ADMINISTRATOR OF THE ESTATE
OF TERRI GAIL TINSTMAN;
JOSEPH ESTEP, JEREMIAH L.
KEMP, WESTFIELD INSURANCE,
AS SUBROGEE OF JEREMIAH L.
KEMP; ENVIROSERVE, INC.,
GOVERNMENT EMPLOYEES
INSURANCE COMPANY, AS
SUBROGEE OF MARC RICHARD
TINSTMAN AND TERRI GAIL
TINSTMAN;

Defendants

2:23-CV-01557-CBB

CHRISTOPHER B. BROWN
UNITED STATES
MAGISTRATE JUDGE

ORDER
ON MOTION TO DISMISS ECF No. 39

AND NOW, this 8th day of August, 2024,

Upon consideration of Defendants' motion to dismiss ECF No. 39, it is
HEREBY ORDERED that said motion is **DENIED** in part and **HELD IN**
ABEYANCE in part as follows: the motion to dismiss is denied on the basis of
abstention under *Younger v. Harris*, 401 U.S. 37 (1971) and held in abeyance pending
supplemental briefing to consider whether the abstention principals derived from

Colorado River Water Conservation Dist. v. United States, 424 U.S. 800 (1976) or *Brillhart v. Excess Ins. Co. of Am.*, 316 U.S. 491 (1942) applies. Defendants shall file a supplemental brief within fourteen days of this Order. Plaintiff's response is due fourteen days thereafter. Should Defendants fail to file a supplemental brief, the motion to dismiss based on *Colorado River* abstention will be denied.

IT IS FURTHER ORDERED that Plaintiff shall file a motion consistent with the Local Rules of this Court within seven days of this Order to deposit the interpleaded funds into the Court Registry.

BY THE COURT:

s/CHRISTOPHER B. BROWN
CHRISTOPHER B. BROWN
UNITED STATES MAGISTRATE JUDGE

cc: all counsel of record via CM/ECF